

Case Nos. 17-17478 & 17-17480

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CITY AND COUNTY OF SAN FRANCISCO,
Plaintiff-Appellee,

v.

JEFFERSON B. SESSIONS, III, et al.,
Defendants-Appellants.

COUNTY OF SANTA CLARA,
Plaintiff-Appellee,

v.

JEFFERSON B. SESSIONS, III, et al.,
Defendants-Appellants.

On Appeal from the United States District Court for the Northern District of
California, Case Nos. 17-cv-00485 & 17-cv-00574 (Orrick, J.)

**BRIEF OF *AMICUS CURIAE* ANTI-DEFAMATION LEAGUE IN
SUPPORT OF PLAINTIFFS-APPELLEES, AFFIRMANCE**

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CORPORATE DISCLOSURE STATEMENT OF *AMICUS CURIAE*

Pursuant to Federal Rule of Appellate Procedure 26.1, amicus Anti-Defamation League states that it is a nonprofit organization, it has no parent company, and it has not issued any shares of stock. Amicus is represented in this matter by Latham & Watkins LLP.

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TABLE OF CONTENTS

	Page
IDENTITY AND INTEREST OF <i>AMICUS CURIAE</i>	1
I. INTRODUCTION	3
II. ARGUMENT.....	5
A. The Challenged Sanctuary Policies Foster Community Policing and Enhance Public Safety.....	5
B. The Order Suppresses Reporting of Crimes and Compromises Community Safety.	7
C. The Order Directly and Disproportionately Harms Immigrant Communities and Leaves Them More Vulnerable to Hate Crimes.	11
III. CONCLUSION	18

TABLE OF AUTHORITIES

Page(s)

CASES

Galarza v. Szalczyk,
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IDENTITY AND INTEREST OF *AMICUS CURIAE*

Amicus curiae Anti-Defamation League (“ADL”) is a non-profit organization that fights anti-Semitism and all forms of bigotry, defends democratic ideals, and protects civil rights for all. ADL has regional offices across the country, including in the San Francisco Bay Area.

Over the past three decades, ADL has been recognized as a leading resource on effective responses to violent bigotry and building bridges of communication, understanding, and respect among diverse communities. To support those aims, ADL also plays a significant role in working with federal, state, and local law enforcement to increase their understanding of bias and its potential impact on law enforcement. ADL trains law enforcement on issues including hate crimes and implicit bias. In addition, ADL’s *Law Enforcement and Society* (LEAS) training program, developed in 1998, specifically examines how police build trust with the members of the community. ADL is also a leading organization in preventing and responding to hate crimes, having drafted the nation’s first model hate crime law and having led a large coalition advocating for the passage of the federal Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act.

ADL is uniquely situated to assist the Court in evaluating the impact of President Donald J. Trump’s January 25, 2017 executive order directing retaliation against state, local, and municipal governments deemed to be “sanctuary

jurisdictions.” Specifically, ADL can provide perspective on the likely suppressive effect of the Executive Order on community policing, and thus the reporting and prevention of crimes, including hate crimes. ADL’s arguments thus further demonstrate, beyond the parties’ briefing, why this Court should affirm the district court’s sound grant of summary judgment and entry of a nationwide injunction.

Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), ADL states that no party’s counsel authored this brief in whole or in part, and no party, party’s counsel, or other person contributed money intended to fund the preparation or submission of this brief.

Pursuant to Federal Rule Appellate Procedure 29(a)(2), ADL states that all parties have consented to the filing of this brief.

I. INTRODUCTION

Despite its title, President Donald J. Trump’s executive order on so-called “sanctuary jurisdictions,” “Enhancing Public Safety in the Interior of the United States” (Exec. Order 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017) (the “Order”)), has the exact opposite effect. By coercing local law enforcement to carry out federal immigration laws, the Order undermines the critical trust and cooperation between law enforcement officials and immigrant and minority communities. This trust is crucial to overall public safety, and central to the success of community policing efforts. The Order does not make any community safer, but instead makes *all* communities – not just the immigrant communities it targets – less so.

Like many jurisdictions around the country, the City and County of San Francisco (“San Francisco”) and the County of Santa Clara (the “County”) (together, “Plaintiffs”) have enacted various community policing policies to ensure that an individual’s citizenship status and any potential immigration issues do not interfere with that individual’s ability to avail themselves of local law enforcement’s protection and assistance. In addition to conserving limited resources, these policies are designed to *assist* local law enforcement – *i.e.*, to encourage community members to come forward to report crimes to local police without the fear that their immigration or citizenship status will subject them to legal action themselves. By threatening to eliminate all federal funding to

jurisdictions that may be deemed “sanctuary jurisdictions,” the Order seeks to force Plaintiffs and jurisdictions across the country to choose between compliance with the Order’s terms, or the immediate elimination of other critical public safety programs because federal funding will be cut for non-compliant jurisdictions. Either alternative undermines public safety, and neither alternative is lawful or morally acceptable.

As California officials and law enforcement leaders around the nation have attested, there is a demonstrable risk that – were the Order to be enforced – undocumented immigrants and other non-citizens would be dissuaded from aiding local enforcement efforts, including efforts to combat hate crime. Because of the Order, both undocumented and documented immigrants already justifiably fear that the police will report their immigration information – or that of a family member or friend – to Immigration and Customs Enforcement (“ICE”), thereby resulting in detention and/or deportation. As a consequence, many individuals are avoiding contact with law enforcement, causing immediate irreparable harm to Plaintiffs and communities across the country.

In the experience of ADL, this break-down of trust and cooperation between police and minority communities invariably leads to an increase in crime – including hate crime – rather than “enhanced public safety.” The District Court correctly held that the Order is unconstitutional on its face, and enjoined its

enforcement. Accordingly, ADL submits this *amicus* brief in support of Plaintiffs and urges this Court to affirm the district court’s grant of Plaintiffs’ motions for summary judgment and entry of a nationwide injunction. Only a nationwide injunction of the Order can prevent the immediate and irreparable harm that will otherwise ensue from the consequent erosion of trust and cooperation between immigrant communities and law enforcement.

II. ARGUMENT

A. The Challenged Sanctuary Policies Foster Community Policing and Enhance Public Safety.

The Order explicitly threatens to eliminate all forms of federal funding to so-called “sanctuary jurisdictions.” Like numerous other communities in California, Plaintiffs will likely be deemed “sanctuary” jurisdictions because of their policies that limit local law enforcement’s involvement in the implementation of federal immigration law in order to foster community policing efforts. *See* S.F. Admin. Code §§ 12H, 12I; Bd. of Supervisors of the Cty. of Santa Clara, Res. Nos. 2011-504, 2010-316.¹

¹ San Francisco and Santa Clara are clearly targeted by the Executive Order as “sanctuary jurisdictions.” The White House has specifically referred to San Francisco as a “sanctuary city.” *See* The White House, Statement on Sanctuary Cities Ruling (Apr. 25, 2017), <https://www.whitehouse.gov/briefings-statements/statement-sanctuary-cities-ruling>. ICE identified Santa Clara as a jurisdiction that has “Enacted Policies which Restrict Cooperation with ICE” in all three of its “Declined Detainer Outcome Reports” issued under Section 9(b) of the Executive Order shortly after its announcement. *See* ICE Enf’t And Removal

The express goal of these and other similar policies is to foster cooperation and communication between law enforcement and the public. This is the cornerstone of “community policing,” which is based on forging partnerships between law enforcement and community members and groups. The U.S. Department of Justice itself has affirmed that the value of community policing efforts depends in the first instance on establishing trust between the community and law enforcement, because “[c]itizens who do not trust the police are less likely to report crime and participate in developing solutions to problems.”² A critical element of developing this trust is creating an environment in which both victims and witnesses are willing to come forward and actively participate in criminal investigations. Plaintiffs’ “sanctuary” and protective policies are designed to do just that, *i.e.*, to encourage community members – regardless of their immigration or citizenship status – to contact and cooperate with local police without fear of deportation or other immigration consequences. Public safety throughout this nation depends on *all* community members having this trust.

Operations, Weekly Declined Detainer Outcome Report (Feb. 11-17, 2017; Feb. 4-10, 2017; Jan. 28-Feb. 3, 2017), <https://www.ice.gov/declined-detainer-outcome-report>.

² Matthew Scheider, *Community Policing Nugget*, CMTY. ORIENTED POLICING SERVS. OFFICE, U.S. DEP’T OF JUSTICE (Feb. 2008), http://web.archive.org/web/20170311171441/https://cops.usdoj.gov/html/dispatch/february_2008/nugget.html.

B. The Order Suppresses Reporting of Crimes and Compromises Community Safety.

By coercing local law enforcement agencies to enforce federal immigration law, the Order drives a wedge between police officers and the residents they protect. Although the Order is vague, it appears to force state and local governments to carry out ICE civil detainer requests, and to prohibit state and local governments from restricting the release of information regarding an individual's immigration status. Order § 9(a), 9(b). Were it to be enforced, immigrants and members of communities with large immigrant populations would reasonably fear that their interaction with law enforcement would necessarily lead to unwanted interaction with ICE. As a result, both undocumented and documented immigrants will be unwilling to report crimes and to assist in police investigations out of justifiable fear that contact with local police will lead to their detention and/or deportation, or that of a family member or friend.³

³ Fears of being treated as undocumented are well-founded. At times, ICE civil detainer requests have been directed towards U.S. Citizens. *See Mendia v. Garcia*, 768 F.3d 1009, 1011 (9th Cir. 2014) (U.S. citizen spent two years in pre-trial detention as a result of the detainer); *Galarza v. Szalczyk*, 745 F.3d 634, 636–38 (3d Cir. 2014) (U.S. citizen held in jail for three days pursuant to erroneous detainer); Eyder Peralta, *You Say You're an American, but What If You Had to Prove It or Be Deported?*, NPR (Dec. 22, 2016), <http://www.npr.org/sections/thetwo-way/2016/12/22/504031635/you-say-you-re-an-american-butwhat-if-you-had-to-prove-it-or-be-deported#foot1> (from October 2007 through July 2015, 693 detainees issued to local LEAs were lifted or resolved with the outcome “United States Citizen Interviewed”).

Recognizing this fact, federal agencies have expressly affirmed the importance of encouraging undocumented victims to report criminal activity and cooperate in the prosecution of crimes. As but one example, 8 C.F.R. § 245.24 provides an incentive for undocumented immigrants who are victims of certain enumerated crimes to report those crimes, and thereby become eligible to apply for lawful immigration status. U.S. Citizenship and Immigration Services has stated that the purpose of this provision is “to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens and other crimes, while also protecting victims of crimes.”⁴

The broader law enforcement community has also recognized the detrimental effects of the Order on community safety. The Police Foundation, the International Association of Chiefs of Police (“IACP”), the Major Cities Chiefs Association, and the Law Enforcement Immigration Task Force all have expressed grave concern that deputizing local law enforcement officers to implement immigration law undermines the immigrant community’s trust in and cooperation with local law enforcement.⁵ IACP has specifically recognized that this

⁴ USCIS, *Victims of Criminal Activity: U Nonimmigrant Status* (Aug. 2017), <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status> (last visited Feb. 12, 2018).

⁵ See, e.g., Tom Jackson, *Police Chiefs’ Immigration Task Force Outlines Opposition to Trump Policy*, WASH. POST (Mar. 1, 2017),

Administration's efforts to penalize communities by withholding federal funding are counter-productive to community safety and the reduction of violent crime.⁶ The Major Cities Chiefs Association similarly stated: "Cities that aim to build trusting and supportive relations with immigrant communities should not be punished because this is *essential to reducing crime and helping victims*, both stated goals of the new Administration in Washington."⁷

Consistent with these observations, research has confirmed that the fear of retribution following interaction with law enforcement has serious practical implications for community safety.⁸ Indeed, the erroneous perception that the Order is now the law of the land has exacerbated fears and anxieties, and thus already changed the landscape of the community's interaction with law

https://www.washingtonpost.com/news/true-crime/wp/2017/03/01/police-chiefs-immigration-task-force-outlines-opposition-to-trump-policy/?utm_term=.4a1b2456fec8.

⁶ *Statement by the International Association of Chiefs of Police on United States Immigration Enforcement Policy and Sanctions*, OFFICIAL BLOG OF THE INT'L ASS'N OF CHIEFS OF POLICE (March 27, 2017), <https://theiacpblog.org/2017/03/27/statement-by-the-international-association-of-chiefs-of-police-on-united-states-immigration-enforcement-policy-and-sanctions>.

⁷ U.S. Conf. of Mayors & Major Cities Chiefs Ass'n, Joint Statement Regarding President Trump's Executive Order, *Enhancing Public Safety in the Interior of the United States*, https://www.majorcitieschiefs.com/pdf/news/mcca_mayors_pr_on_eo_12517.pdf (last visited Feb. 12, 2018) (emphasis added).

⁸ *See, e.g.,* Sefano Camino, Giovanni Mastrobuoni, & Antonio Nicolo, *Silence of the Innocents: Illegal Immigrants' Underreporting of Crime and Their Victimization*, IZA (Oct. 2016), <https://ssrn.com/abstract=2861091>.

enforcement. Since last year, there has been decreased crime reporting in the Latino community.⁹ For example, in Houston and Los Angeles, rape reports by Latinos went down by 42.8 and 25 percent, respectively, from 2016.¹⁰ Reports of spousal abuse by Latino victims have declined by 18, 13, and 3.5 percent in San Francisco, San Diego, and Los Angeles, respectively, as compared to 2016, while reporting among non-Latinos has remained the same.¹¹ The decline in reports of sexual assault, in particular, has led to increased difficulty in investigating and prosecuting domestic violence.¹² The overall effect of the Order would thus not be a reduction in crime, but rather an *increase* in crime, as the necessary trust and cooperation between the police and local communities is reduced.

Moreover, contrary to the premise of the Order, there is demonstrable evidence that “sanctuary” policies reduce crime. For example, one study

⁹ See Chris Magnus, *Tucson’s Police Chief: Sessions’s Anti-Immigrant Policies Will Make Cities More Dangerous*, N.Y. TIMES (Dec. 6, 2017), <https://nyti.ms/2nBbnTZ>.

¹⁰ Carolina Moreno, *Houston Police Announce Decrease in Latinos Reporting Rape, Violent Crimes* (Apr. 10, 2017), http://www.huffingtonpost.com/entry/houston-police-announces-decrease-in-latinos-reporting-rape-violent-crimes_us_58ebd5fae4b0df7e204455f4.

¹¹ James Queally, *Fearing Deportation, Many Domestic Violence Victims Are Steering Clear of Police and Courts*, L.A. TIMES (October 9, 2017), <http://www.latimes.com/local/lanow/la-me-ln-undocumented-crime-reporting-20171009-story.html>.

¹² Jennifer Medina, *Too Scared to Report Sexual Abuse. The Fear: Deportation*, N.Y. TIMES (Apr. 30, 2017), <https://nyti.ms/2qkt2wM>.

completed in early 2016 (thus well before the Order was issued) compared counties with a “sanctuary” policy – *i.e.*, counties that do not assist federal immigration enforcement officials by holding people in custody beyond their release date – with non-sanctuary counties that were similar on a broad range of demographic characteristics. The study concluded that “[t]here are, on average, 35.5 fewer crimes committed per 10,000 people in sanctuary counties compared to nonsanctuary counties.”¹³

Absent an injunction, the harms that will occur from the breakdown of community policing will be immediate and irreparable. Once local police effectively become federal immigration agents, it will be difficult – if not impossible – for them to rebuild the bonds of trust and cooperation with immigrant communities.

C. The Order Directly and Disproportionately Harms Immigrant Communities and Leaves Them More Vulnerable to Hate Crimes.

The effects of the Order are destined to be felt most acutely by the most vulnerable members of our society, in particular those groups and individuals who are most frequently the victims of hate crimes.

¹³ Tom K. Wong, *The Effects of Sanctuary Policies on Crime and the Economy*, CTR. FOR AM. PROGRESS (Jan. 26, 2017), <https://www.americanprogress.org/issues/immigration/reports/2017/01/26/297366/the-effects-of-sanctuary-policies-on-crime-and-the-economy>.

Forty-five states – including California – and the District of Columbia have shown their commitment to protecting minority groups by enacting hate crime legislation based on, or similar to, a model statute drafted by ADL.¹⁴ The landmark Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009 (“HCPA”) created a new federal law which criminalizes willfully causing bodily injury when the crime was committed because of the actual or perceived race, color, religion, or national origin of the victim, or the crime was committed because of actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability, and the crime affected interstate or foreign commerce or occurred within federal special maritime and territorial jurisdiction. 18 U.S.C. § 249(a). The purpose of the HCPA is to create more effective response to and prevention of hate crimes, which “are disturbingly prevalent, [] pose a significant threat to the full participation of all Americans in our democratic society,” and “are significantly under-reported.”¹⁵ This Congressional commitment to protecting the most vulnerable communities in our society will be directly undermined, and irreparably harmed, by enforcement of the Order as framed.

¹⁴ ADL, *Hate Crimes*, <https://www.adl.org/what-we-do/combat-hate/hate-crimes> (last visited Feb. 12, 2018).

¹⁵ H.R. REP. NO. 111-86 at 5.

ADL has closely monitored and exposed the increasingly hateful anti-immigrant, anti-Latino, and anti-Muslim rhetoric that has surrounded the national debate on immigration reform.¹⁶ During the period since the 2016 presidential election, individuals have reported increased hate incidents and hate crimes targeting Latinos based on perceived immigration status.¹⁷ Indeed, studies have shown that hate crimes have been on the rise.¹⁸ For example, California saw an 11.2 percent increase in reported hate crimes from 2015 (before the anti-immigrant

¹⁶ ADL, *Executive Order on So-Called “Sanctuary Cities” Puts All Communities at Risk, ADL Says* (Jan. 25, 2017), <https://www.adl.org/news/press-releases/executive-order-on-so-called-sanctuary-cities-puts-all-communities-at-risk-adl>; Ric Anderson, *Q+A: ADL Leader Says That as Trump Surged, So Did Hate Crimes*, LAS VEGAS SUN (Dec. 22, 2016), <https://lasvegassun.com/news/2016/dec/22/qa-adl-leader-says-that-as-trump-surged-so-did-hat>.

¹⁷ Jessica Weiss, *Six Months of Hate: How Anti-immigrant Sentiment Is Affecting Latinos in the United States*, UNIVISIONNEWS (June 14, 2017), <https://www.univision.com/univision-news/united-states/six-months-of-hate-how-anti-immigrant-sentiment-is-affecting-latinos-in-the-united-states>.

¹⁸ See, e.g., German Lopez, *A New FBI Report Says Hate Crimes – Especially Against Muslims – Went up in 2016*, VOX (Nov. 13, 2017), <https://www.vox.com/identities/2017/11/13/16643448/fbi-hate-crimes-2016> (according to FBI statistics, reported hate crimes in 2016 increased by nearly 5 percent); L.A. Cty. Comm’n on Human Relations, *2015 Hate Crime Report*, [http://www.lahumanrelations.org/hatecrime/reports/2015%20Hate%20Crime%20Report%20PDF%20\(1\).pdf](http://www.lahumanrelations.org/hatecrime/reports/2015%20Hate%20Crime%20Report%20PDF%20(1).pdf) (finding that crimes targeting Latino/as jumped 69 percent in Los Angeles County in 2015); Michael Shively, *et al.*, *Understanding Trends in Hate Crimes Against Immigrants and Hispanic-Americans*, NAT’L INST. OF JUSTICE (Dec. 27, 2013), <https://www.ncjrs.gov/pdffiles1/nij/grants/244755.pdf> (“From 2010 to 2011, there was a statistically significant increase in the prevalence of harassment or bullying targeting Hispanics because of their ethnicity.”).

rhetoric of the election campaign) to 2016, with the majority of the reported hate crimes in California in 2016 occurring on the basis of race, ethnicity, or national origin.¹⁹ The FBI recently reported that, nationally, hate crimes rose nearly 5 percent from 2015 to 2016, including a 19 percent increase in anti-Muslim hate crimes.²⁰

People within immigrant communities are especially vulnerable to hate crime.²¹ Indeed, one study found that “[i]n a national survey of 464 immigration service providers conducted in 2012 [], advocates reported that 73% of hate crime victims they had served were targeted on the basis of immigration status/nationality.”²² Both documented and undocumented immigrants, and even

¹⁹ Patrick McGreevy, *Hate Crimes Rise in California, State Report Says*, L.A. TIMES (July 3, 2017), <http://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-hate-crimes-rise-in-california-with-1499106658-htmlstory.html>.

²⁰ Ryan Lucas, *Hate Crimes up in 2016, FBI Statistics Show*, NATIONAL PUBLIC RADIO (November 13, 2017), <https://www.npr.org/2017/11/13/563737883/hate-crimes-up-in-2016-fbi-statistics-show>; Katayoun Kishi, *Assaults Against Muslims in U.S. Surpass 2001 Level*, PEW RESEARCH CENTER (November 15, 2017), <http://www.pewresearch.org/fact-tank/2017/11/15/assaults-against-muslims-in-u-s-surpass-2001-level>.

²¹ Int’l Ass’n of Chiefs of Police, *Police Chiefs Guide to Immigration Issues* 28 (July 2007), <http://www.theiacp.org/Portals/0/pdfs/Publications/PoliceChiefsGuidetoImmigration.pdf>.

²² Jeanine Braud, *et al.*, *U Visas for Immigrant Victims of Hate Crimes: A Practice Guide for Advocates*, U.C. BERKELEY PUB. L. AND LEGAL THEORY RESEARCH PAPER SERIES 20 (June 26, 2014), <https://ssrn.com/abstract=2459315>.

members of minority communities that may be perceived as immigrants, face an increased danger of hate crimes.

While the increased number of reported hate crimes is already troubling, the data certainly *underrepresents* the number of hate crimes occurring across the U.S. Out of 15,254 law enforcement agencies that participated in FBI's Hate Crime Statistics Act data collection in 2016, less than 12 percent reported one or more hate crimes to the FBI.²³ Data obtained by the Bureau of Justice Statistics' National Crime Victimization Survey show that, from 2011 to 2015, the majority (54 percent) of hate crime victimizations in the U.S. were not reported to the police.²⁴

Moreover, the most likely victims of hate crimes are also those least likely to report those crimes.²⁵ These individuals are often immigrants who face cultural and language barriers, along with fear of deportation or reprisal if they report

²³ ADL, *Comparison of FBI Hate Crime Statistics (2016-2000)* (Nov. 2017), <https://www.adl.org/sites/default/files/documents/Final%20PDF%20FBI%20Hate%20Crime%20Statistics%20Comparison%202000-2016%20%282%29.pdf>.

²⁴ Bureau of Justice Statistics, *Majority of Hate Crime Victimizations Go Unreported to Police* (June 29, 2017), <https://www.bjs.gov/content/pub/press/hcv0415pr.cfm>.

²⁵ ADL, *Testimony of Jonathan A. Greenblatt CEO and National Director Anti-Defamation League Before the Senate Judiciary Committee Hearings on Responses to Increase in Religious Hate Crimes* (May 2, 2017), <https://www.adl.org/sites/default/files/documents/Final%20ADL%20statement%20Senate%20Judiciary%20Committee%20on%20combatting%20religious%20hate%20crime.pdf>.

incidents to the police.²⁶ Immigrant victims of crime often do not recognize the victimization they face as a crime and, even when a victim overcomes substantial barriers and reports a crime, “the crime may not be recognized as bias motivated by the local police because of lack of training or language difficulties.”²⁷

These barriers extend beyond the fear of reporting violent crimes to infect every aspect of immigrant life. Indeed, people within immigrant communities are particularly susceptible to economic crimes, including wage theft and other employer abuses.²⁸ Day laborers are easy targets for unscrupulous employers, who hire them and then disappear before paying their day’s wages.²⁹ Workers who are robbed of their wages are often afraid to report the theft because of their immigration status. As Professor Stephen Lee of the University of California, Irvine School of Law stated, “[D]istrust of the police effectively neutralizes the

²⁶ *Id.*

²⁷ Michael Shively, *et al.*, *Understanding Trends in Hate Crimes Against Immigrants and Hispanic-Americans*, NAT’L INST. OF JUSTICE (Dec. 27, 2013), <https://www.ncjrs.gov/pdffiles1/nij/grants/244755.pdf>.

²⁸ Liz Robbins, *New Weapon in Day Laborers’ Fight Against Wage Theft: A Smartphone App*, N.Y. TIMES (Mar. 1, 2016), <https://nyti.ms/2mJBnst>.

²⁹ Stephen Lee, *Policing Wage Theft in the Day Labor Market*, 4 U.C. IRVINE L. REV. 655 (2014).

potential of wage theft statutes when enforced against employers who hire unauthorized immigrant workers.”³⁰

If the nationwide injunction of the Order is not affirmed, victims and witnesses will hesitate to contact law enforcement when doing so may subject them or their family members to possible detention or deportation in the absence of statutory protections. Combined with the current atmosphere surrounding the immigration debate, this lack of community engagement will leave vast portions of the population especially vulnerable to hate crimes and other criminal attacks. Offenders will specifically target victims in immigrant communities without fear of prosecution. Indeed, unless the Order’s enforcement is enjoined, it effectively will create an underclass of people – primarily, although by no means exclusively, in the Latino community – who have no meaningful access to police services. These effects of the Order are immediate and irreparable – law enforcement officials around the nation have spent countless hours building relationships with immigrant communities that now are being threatened or destroyed.

³⁰ *Id.* at 665. Day laborers are also especially vulnerable to robberies and anti-immigration vigilantes. *See, e.g.,* Jason McGahan, *Day Laborers Have Become an Easy Target for Anti-Immigrant Vigilantes*, LA WEEKLY (Jan. 10, 2017), <http://www.laweekly.com/news/day-laborers-have-become-an-easy-target-for-anti-immigrant-vigilantes-7803494>; Megan Cassidy, *Phoenix Police: Armed Robber Targets Day Laborers with Promise of Work*, THE REPUBLIC (July 30, 2015), <http://www.azcentral.com/story/news/local/phoenix/2015/07/30/phoenix-police-armed-robber-lobo-bandit-targets-day-laborers-promise-work/30918721>.

III. CONCLUSION

For the foregoing reasons, ADL requests that this Court affirm the district court's Order Granting Plaintiffs' Motions for Summary Judgment and entering a nationwide injunction.

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CERTIFICATION OF COMPLIANCE

This brief complies with the type-volume limitations of Federal Rule of Appellate Procedure (“Rule”) 29(a)(5) because it contains 3,668 words, excluding the parts exempted by Rule 32(a)(7)(B)(iii).

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